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     Attorney for Plaintiff
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 5
                         UNITED STATES DISTRICT COURT DISTRICT OF NEVADA
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 7
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      FREIDA LAUB,
                                                    No. CV-S-
10
                                    Plaintiff.
11
      vs.
12
      RETRIEVAL-MASTERS CREDITORS
13
      BUREAU, INC., a foreign corporation
      doing business as AMERICAN MEDICAL COLLECTION AGENCY
14
                                 Defendant.
15
16
                                       COMPLAINT
17
                                     JURISDICTION
18
                 The jurisdiction of this Court attains pursuant to the FDCPA, 15 U.S.C.
           1.
19
    § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332, and the doctrine of supplemental
20
    jurisdiction. Venue lies in the Southern Division of the Judicial District of Nevada as
21
    Plaintiff's claims arose from acts of the Defendant(s) perpetrated therein.
22
                              PRELIMINARY STATEMENT
23
           2.
                 This action is instituted in accordance with and to remedy Defendant's
24
    violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C § 1692 et seq.
25
    (hereinafter "FDCPA"), and of related state law obligations brought as supplemental
26
    claims hereto.
27
     ///
28
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- 3. In 2009, Defendant initiated a campaign of abusive, unfair, unreasonable, and unlawful debt collection activity directed against Plaintiff in Las Vegas, Nevada.
- 4. As a result of these and other violations of law, Plaintiff seeks hereby to recover actual and statutory damages together with reasonable attorney's fees and costs.

## **PARTIES**

- 5. Plaintiff, Freida Laub, is a natural person who resides in Las Vegas, Nevada, and is a "consumer" as defined by 15 U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by 15 U.S.C. Section 1692a(5).
- 6. Defendant, Retrieval-Masters Creditors Bureau, Inc., dba American Medical Collection Agency, is a foreign corporation, the principal purpose of whose business is the collection of debts, operating a debt collection agency from its principal place of business in Elmsford, New York, and regularly collects or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15 U.S.C. Section 1692a(6).

## FACTUAL ALLEGATIONS

- 7. Plaintiff(s) repeat, reallege and assert all factual allegations contained in the preliminary statement to this Complaint and reassert them as incorporated in full herein.
  - 8. Plaintiff suffers from Degenerative Multiple Sclerosis.
  - 9. This disease has severely impacted Plaintiff's life.
- 10. Plaintiff can only work on a limited basis and consequently earns a limited income.
  - 11. On March 9, 2009, Plaintiff was dunned by Defendant (Exhibit 1.)
  - 12. The alleged debt underlying this action was for medical tests.
- 13. Plaintiff called Defendant during early April, 2009, offering to pay the entire \$46.16.
  - 14. Plaintiff provided her credit card information.
- 15. Defendant's collector then advised there would be a surcharge for any credit card payment.

- 16. Plaintiff advised the collector she could not afford the surcharge and the collector ostensibly agreed.
- 17. Plaintiff advised she would quickly send Defendant a check for the entire amount.
- 18. Plaintiff instructed Defendant not to charge her card and the collector ostensibly agreed.
  - 19. On April 10, 2009, Defendant negotiated Plaintiff's check (Exhibit 2.)
  - 20. During late April Plaintiff received her credit card statement.
  - 21. Defendant had charged the \$46.16 three times (Exhibit 3.)
- 22. The three charges were intentionally and fraudulently made contrary to Plaintiff's specific instruction.
- 23. The three charges were intentionally and fraudulently made notwithstanding Plaintiff's full payment by check.
- 24. Defendant's intentional fraud was in violation of both FDCPA § 1692e(2)(A) and (10) and FDCPA § 1692f. <u>Kimber v. Federal Financial Corp.</u>, 668 F. Supp. 1480, 1487-89 (M.D. Ala. 1987).
- 25. The foregoing acts and omissions of Defendant were undertaken by it willfully, maliciously, and intentionally, knowingly, and/or in gross or reckless disregard of the rights of Plaintiff.
- 26. The foregoing acts and omissions of Defendant were undertaken by it willfully, maliciously, and intentionally, knowingly, and/or in gross or reckless disregard of the rights of Plaintiff.
- 27. Indeed, the foregoing acts and omissions of Defendant were undertaken by it indiscriminately and persistently, as part of its regular and routine debt collection efforts, and without regard to or consideration of the identity or rights of Plaintiff.
- 28. As a proximate result of the foregoing acts and omissions of Defendant, Plaintiff has suffered actual damages and injury, including, but not limited to, stress, humiliation, mental anguish and suffering, and emotional distress, for which Plaintiff should be compensated in an amount to be proven at trial.

1	CAUSES OF ACTION
2	COUNT I
3	29. The foregoing acts and omissions of Defendant constitute violations of the
4	FDCPA, including, but not limited to, Sections 1692c, d, e and f.
5	30. Plaintiff is entitled to recover statutory damages, actual damages, reasonab
6	attorney's fees, and costs.
7	COUNT II
8	31. The foregoing acts and omissions constitute unreasonable debt collection
9	practices in violation of the doctrine of Invasion of Privacy. Kuhn v. Account Control
10	Technology, Inc., 865 F. Supp. 1443, 1448-49 (D. Nev. 1994); Pittman v. J. J. Mac Intyre Co.
11	Nevada, Inc., 969 F. Supp. 609, 613-14 (D. of Nev. 1997).
12	32. Plaintiff is entitled to recover actual damages as well as punitive damages
13	an amount to be proven at trial.
14	JURY DEMANDED
15	Plaintiff hereby demands trial by a six-person jury on all issues so triable.
16	WHEREFORE, Plaintiff prays that this Honorable Court grant the following
17	relief:
18	1. Award actual damages.
19	2. Award punitive damages.
20	3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
21	4. Award reasonable attorney fees.
22	5. Award costs.
23	6. Grant such other and further relief as it deems just and proper.
24	Respectfully submitted,
25	
26	MITCHELL D. CLINED, ESC.
27	MITCHELL D. GLINER, ESQ. Nevada Bar #003419
28	3017 West Charleston Boulevard Suite 95 Las Vegas, NV 89102 Attorney for Plaintiff





## AMERICAN MEDICAL COLLECTION AGENCY

2269 S. SAW MILL RIVER ROAD, BLDG. 3 • ELMSFORD, NY 10523

PIN NUMBER: 97838991991

02 L2Q VAP A32604955

1-800-365-3638 1-914-345-7125

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Freida Laub

6043 Journeys End St.

Las Vegas, NV 89148-5524

March 9, 2009

## SERIOUSLY PAST DUE

Dear Freida Laub:

You have not responded to our previous notice.

914-345-0746

We must assume that you do not dispute the debt in question and your account has been classified as a valid and undisputed debt and subject to collection in full.

For your reference, the \$46.16 you owe is for laboratory tests ordered by your physician and performed by our client. These charges were not included in any bills you received from your doctor or hospital.

Your deadline for payment in full is 03/23/09.

If we do not receive payment by the above date, we will pursue collections. We urge you to take care of this matter promptly. You may call us at the telephone number above if you have any questions. Otherwise, please mail your payment today with the bottom portion of this letter.

pay, amacionline. com



NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

Sincerely Howard

Collection Supervisor

Service Provider **Associated Pathologist Charter** 

AMCA PO BOX 1235 ELMSFORD, NY 10523-0935

Amount Due

\$46.16

mate of Service

September 18, 2008

119

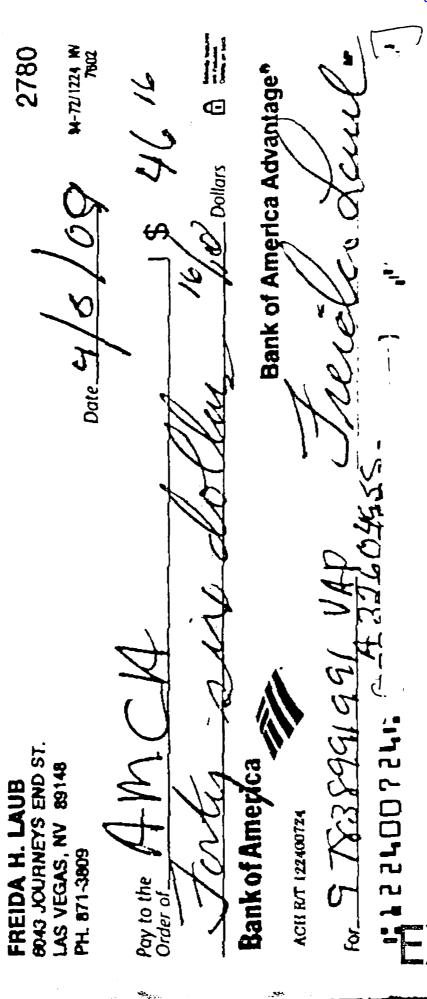
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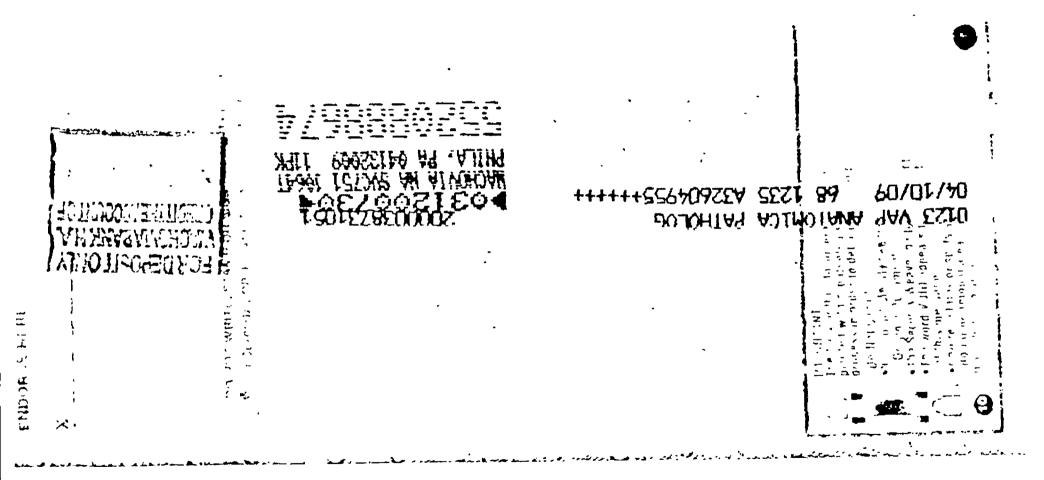
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Invoice #

A32604955

EXHIBIT /

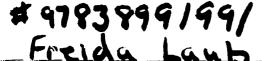




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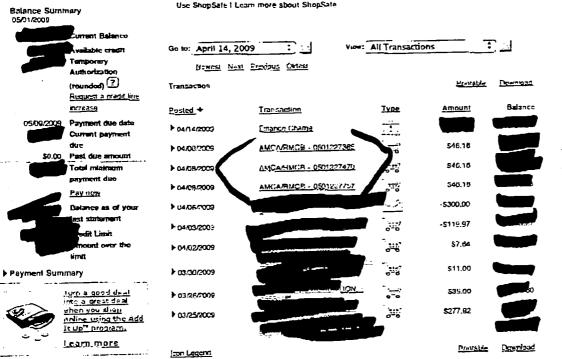


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Bank of America Gold Visa - 3252

Consolidate your Activity My Statements Services

bills. Inhals billing billings from other years billing carbon you shop online. ShopSalo® is our true service for Online Banking customers that allows you to create a unique, temporary account number for ordine purchases.



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paid by check & charged 3x's

View: All Transactions

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Blank of America, N.A. Member FDIC. Equal Housing Londer Co. 352001 Rank of America Corporation. All nights reserved.

EXHIBIT3 Page 1 of 1

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